

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EARNEST TOMBOURA WOODRUFF,
Plaintiff,
v.
THE WHITE HOUSE, et al.,
Defendants.

No. 2:24-cv-00280-CKD P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has not, however, filed an in forma pauperis affidavit or paid the required filing fee of \$350.00 plus the \$55.00 administrative fee.¹ See 28 U.S.C. §§ 1914(a), 1915(a). Plaintiff will be provided the opportunity either to submit the appropriate affidavit in support of a request to proceed in forma pauperis or to submit the required fees totaling \$405.00.

The revised in forma pauperis application form includes a section that must be completed by a prison official, which must be accompanied by a certified copy of the prisoner's prison trust account statement for the six-month period immediately preceding the filing of this action. However, this section is for non-CDCR incarcerated prisoners only. Because plaintiff is housed

¹ If leave to file in forma pauperis is granted, plaintiff will still be required to pay the filing fee but will be allowed to pay it in installments. Litigants proceeding in forma pauperis are not required to pay the \$55.00 administrative fee.

1 in CDCR custody, the CDCR will email plaintiff's certified financial information directly to the
 2 court. But plaintiff must still provide a signed and dated application to proceed in forma
 3 pauperis.

4 **I. Screening Requirement**

5 The court is required to screen complaints brought by prisoners seeking relief against a
 6 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
 7 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
 8 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek
 9 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

10 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
 11 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
 12 Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an
 13 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
 14 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
 15 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
 16 Cir. 1989); Franklin, 745 F.2d at 1227.

17 A complaint, or portion thereof, should only be dismissed for failure to state a claim upon
 18 which relief may be granted if it appears beyond doubt that plaintiff can prove no set of facts in
 19 support of the claim or claims that would entitle him to relief. Hishon v. King & Spalding, 467
 20 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)); Palmer v. Roosevelt
 21 Lake Log Owners Ass'n, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a complaint under
 22 this standard, the court must accept as true the allegations of the complaint in question, Hosp.
 23 Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976), construe the pleading in the light
 24 most favorable to the plaintiff, and resolve all doubts in the plaintiff's favor, Jenkins v.
 25 McKeithen, 395 U.S. 411, 421 (1969).

26 **II. Allegations in the Complaint**

27 Plaintiff alleges that several state and federal agencies are engaged in a criminal enterprise
 28 which includes mail fraud, forgery, murder for hire, embezzlement, hate crimes, money

1 laundering, and computer hacking. By way of relief, plaintiff seeks an investigation to be
2 conducted by the United States Marshal's Service and to be placed in their witness protection
3 program.

4 **III. Analysis**

5 The court finds the allegations in plaintiff's complaint so vague and conclusory that it is
6 unable to determine whether the current action is frivolous or fails to state a claim for relief. The
7 court has determined that the complaint does not contain a short and plain statement as required
8 by Fed. R. Civ. P. 8(a)(2). Although the Federal Rules adopt a flexible pleading policy, a
9 complaint must give fair notice and state the elements of the claim plainly and succinctly. Jones
10 v. Cmty. Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at least
11 some degree of particularity overt acts which defendants engaged in that support plaintiff's claim.
12 Id. Because plaintiff has failed to comply with the requirements of Fed. R. Civ. P. 8(a)(2), the
13 complaint must be dismissed. The court will, however, grant leave to file an amended complaint.

14 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions
15 complained of have resulted in a deprivation of plaintiff's constitutional rights. See Ellis v.
16 Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, the complaint must allege in specific terms how
17 each named defendant is involved. There can be no liability under 42 U.S.C. § 1983 unless there
18 is some affirmative link or connection between a defendant's actions and the claimed deprivation.
19 Rizzo v. Goode, 423 U.S. 362 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980);
20 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Furthermore, vague and conclusory
21 allegations of official participation in civil rights violations are not sufficient. Ivey v. Bd. of
22 Regents, 673 F.2d 266, 268 (9th Cir. 1982).

23 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to
24 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended
25 complaint be complete in itself without reference to any prior pleading. This is because, as a
26 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375
27 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no
28 longer serves any function in the case. Therefore, in an amended complaint, as in an original

complaint, each claim and the involvement of each defendant must be sufficiently alleged.

IV. Plain Language Summary for Pro Se Party

The following information is meant to explain this order in plain English and is not intended as legal advice.

The court has reviewed the allegations in your complaint and determined that they do not state any claim against the defendants. Your complaint is being dismissed, but you are being given the chance to file an amended complaint. If you wish to pursue this case, you also need to pay the filing fee or complete the enclosed application to proceed in forma pauperis and return it to the court.

In accordance with the above, IT IS HEREBY ORDERED that:

1. Plaintiff shall submit, within thirty days from the date of this order, an application to proceed in forma pauperis on the form provided by the Clerk of Court, or the required fees in the amount of \$405.00.


2. The Clerk of the Court is directed to send plaintiff a new Application to Proceed In Forma Pauperis By a Prisoner.

3. Plaintiff's complaint is dismissed.

4. Plaintiff is granted thirty days from the date of service of this order to file an amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice; and, the amended complaint must bear the docket number assigned this case and must be labeled "Amended Complaint."

5. Plaintiff's failure to comply with this order will result in a recommendation that this action be dismissed.

Dated: June 3, 2024


CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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